

UNITED STATES DISTRICT COURT
Northeastern Division—District of North Dakota
ORDER OF DETENTION PENDING TRIAL

(Local Form 12/05 lrh)

United States of America vs. Rachel Barbosa Rogers Case No. 3:07-mj-73

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing has been held. I conclude that the following facts require the detention of defendant pending trial in this case.

PART I—FINDINGS OF FACT

Both of the following facts are present:

- (1) There is probable cause to believe that defendant has committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in 21 U.S.C. § 801 et seq., and,
- (2) Defendant has not rebutted the presumption established by finding (1) that no condition or combination of conditions will reasonably assure the appearance of defendant as required and the safety of the community.

PART II—WRITTEN STATEMENT OF REASONS FOR DETENTION

Although Ms. Rogers has long-standing residential and family ties to this area, her residence has recently been unstable. Evidence of Ms. Rogers's recent reporting of her whereabouts to her state probation officer is conflicting. The government proffered information from the report of the pretrial services officer which stated that the state probation officer had not been made aware of Ms. Rogers's whereabouts in recent weeks. Ms. Rogers, however, testified that she left messages for the probation officer about her location, and that she returned to Fargo for a meeting scheduled with the probation officer, though she was arrested before that scheduled meeting occurred.

The government both presented, and proffered, evidence of statements Ms. Rogers had made to other individuals about her intention to flee, including statements about her intention to go to Haiti. She did, however, have reason to know that she was under investigation prior to arrest, and she did not leave the area.

Given the conflicting nature of the evidence before it, this Court concludes that Ms. Rogers has not rebutted the presumption of 18 U.S.C. § 3142(e).

PART III—DIRECTIONS REGARDING DETENTION

Defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

If possible, the United States Marshal shall place Ms. Rogers at Stutsman County Correctional Center.

Dated this 20th day of September, 2007.

/s/ Alice R. Senechal

Alice R. Senechal, U.S. Magistrate Judge